

MINUTES OF REGULAR UNEMPLOYMENT INSURANCE (UI) BOARD MEETING

December 7, 2005

10:01 A.M.

PRESENT: Edmund Thais, President; Lowell Robinson, Vice-President; Barry Baer, Bob Dickerson, Tom Hargrove, Brent Schoolcraft, and Sean Seyferth—Members. Also in attendance were: Monty Combs, Deputy Commissioner Finance/Controller; Brooke Huntington, Deputy Commissioner, Customer Solutions; Anne Valentine, Deputy Commissioner, Communications and Governmental Affairs; Nicole Iaria, Director Tax Administration; and Marsha Feltner, Board Clerk.

ABSENT: Sherlonda Anderson and Mo Davison, Members

The Unemployment Insurance (UI) Board convened its regular meeting at the Administrative Office; 10 N. Senate Ave., Rm. 301-A; Indianapolis, Indiana at 10:01 a.m. on December 7, 2005. The meeting was called to order by Board President Edmund Thais, who noted the presence of a quorum for the transaction of business.

Mr. Thais noted the presence of two (2) guests—Adam Waller, Fidelity Investments on behalf of Visteon Systems and Ed Henze, Director Benefit Administration.

COMMISSIONER'S REPORT: Mr. Combs noted that the Commissioner was unavailable to attend but had wanted to pass on some information. Referencing a recent press conference Mr. Combs passed out a bar chart—which was presented at that time—which showed comparisons of insurance claims in process (comparing numbers from December '04 to November '05). In addition, Mr. Combs noted there had been some recent press coverage on the debit card program. The RFP (request for proposal) for that program should go out today, Mr. Combs noted, and is due back January 10th. The goal for the implementation of this program is April 3rd, Mr. Combs added. Mr. Robinson asked if other agencies/programs would be involved. Mr. Combs replied that the RFP was going out on behalf of the State of Indiana, however, IDWD would be taking the lead in the program. The project team for this endeavor includes representatives from Auditor of State and Child Services, Mr. Combs noted, adding that while the Dept of Revenue and FSSA (TANIFF/Food Stamp) programs chose not to participate at this time they are being kept in the loop on the project. The agency has hired a consultant—Henry Dreyfus—who is extremely well versed in this field, Mr. Combs added. The proposal is requesting that this program be run at no cost to the State, Mr. Combs continued, which is expressed in the RFP. Mr. Thais asked if the USDOL had responded to the request to reallocate some of the cost savings from postage. Mr. Combs replied that to date we have not received a response, although the agency is still pursuing that with the USDOL.

Due to another engagement Mr. Thais noted that Ms. Valentine had asked to move her presentation to the “top” of the agenda and turned the floor over to her. Ms. Valentine passed out a brief synopsis of UI proposals under review for possible inclusion in the agency's legislative package to move forward with in the '06 session. While going over the handout some questions and requests arose—

- In regards to the “fraud penalty”, Mr. Robinson asked where over-payment penalties go. Ms. Valentine stated she assumed that it goes into the Special Fund, but she would be happy to verify that at the next meeting.
- Mr. Robinson requested a summary of over-payment write-offs, Mr. Combs agreed.
- Mr. Robinson posed concerns regarding the proposed settlement authority for the

CEU and BPC units and asked that more detailed information be provided. Ms. Valentine agreed to bring it up with Ms. Weber. Ms. Iaria added that she believed this would give the agency more leeway in the settlement process, as currently it is an “all or nothing” process.

- In regards to the “sharing” of UI information, Mr. Baer asked if it would be limited to employer information. Ms. Valentine noted that she believed it would, but would check to make sure.
- Ms. Valentine made note of proposed changes in language to the UI P&I Fund Apprenticeship Training monies that would remove language that would require a program be approved by the USDOL’s Bureau of Apprenticeship Training (BAT). This would be done, Ms. Valentine explained because the BAT no longer exists. Mr. Seyferth noted that he was not aware of the BAT program being “dissolved”, adding that he had had dinner with a USDOL/BAT representative earlier in the week. Ms. Valentine agreed to look into the “reasoning” a little more closely and report back.

Ms. Valentine agreed to address the questions/concerns and provide the requested information at the next meeting. Mr. Robinson suggested that this information be included in the Board’s *Annual Report* under *Recommendations*. Mr. Seyferth noted that he would not feel comfortable with doing that until he could see the actual bill. Ms. Valentine noted, it is currently in Legislative Services where it is being worked on and agreed to forward a copy of the Bill to the Board once it was written up. Mr. Thais asked if any language was being included regarding delinquent employers—such as language about “piercing the corporate veil”. With this being a short session, Ms. Valentine noted the agency had not been sure as to how to they had wanted to proceed legally to do this, although they do plan to try and “lay some groundwork” on the topic this year. Referring back to benefit “overpayments”, Mr. Dickerson noted that as he saw it was a little unfair to go back and collect overpayments that were made based on original decisions by the department that are overturned at the ALJ level—why would the agency not want to look at “grandfathering” those payments. Mr. Combs replied that benefits are basically paid from a federal fund and the agency is obligated to try and replenish that fund based on the rules.

OLD BUSINESS:

The minutes of the November 2, 2005 meeting were unanimously adopted on a motion by Mr. Dickerson, with a second by Mr. Baer. All members present signed the official Minute Book.

In regards to phone participation, Mr. Combs stated that the Legal Department had determined under the current statute there must be a quorum physically present for a meeting to occur. Once that presence is achieved other members may participate by phone, Mr. Combs added, noting that the agency can seek to change the statute if the Board wishes. The Board concurred that they saw no need to change the statute at this time.

After looking at the Board’s *Annual Report*, Mr. Baer noted he had asked that this item (Reports to the Board) be put on the agenda. While he felt this report is a very good publication on an annual basis, Mr. Baer continued, by stating he felt that the Board should be looking at some of this information throughout the course of the year. For instance, Mr. Baer noted, while the Board receives information on the number of months of benefits in the Trust Fund monthly he would like to see that information in a “trend” picture—as he would also like to see TAA and WARN information. Also, Mr. Baer asked if it could be researched how legally liable the Board is for the administration/oversight of funds that they are fiducially responsible for. Mr. Seyferth asked that the Board also receive a report that includes any changes that would be made by the legislative package as well.

NEW BUSINESS:

While passing out a hard copy of a PowerPoint presentation, Ms. Huntington noted that her area is working on a strategic plan for the Trade Adjustment Act (TAA) while trying to follow the three (3) agency objectives outlined by the Commissioner and the Governor—increase jobs and employment; increase personal income; and, increase customer satisfaction. The plan is looking to regionalize the TAA program in this administration, which they hope will reduce turn around time in getting these funds out, Ms. Huntington explained. This new plan is also in line with the Workforce Investment Act's (WIA) strategic plan—which was approved by the USDOL in the past week, Ms. Huntington noted. Referring to her handout Ms. Huntington explained the TAA plan's objectives, performance standard goals, and the strategy will be implemented. Mr. Seyferth asked if there were any kind of tracking done in TAA, such as—the job they had and that salary versus the job they are trained for and its salary, to which Ms. Huntington concurred. Mr. Baer noted he would prefer to see that type of information as compared to what is currently received regarding TAA. Ms. Huntington agreed that they could change the Board's report up to show that type of information as well as how long claimants are receiving benefits.

Ms. Iaria noted that the Board has given the agency permission to waive interest and penalties due to acts of God (i.e., fire, flood, tornado, death of an agent). However, in the instance that is coming before them today, Ms. Iaria stated, the scenario is a little unusual and the dollar amount—thirty-two thousand, eight hundred and eighty-one dollars and eleven cents (\$32,881.11) in interest and a penalty of eighty-two thousand, two hundred and two dollars and seventy eight cents (\$82,202.78) is quite a bit higher than the typical request the agency receives. Mr. Waller was at today's meeting to request a P&I waiver on behalf of Visteon Systems. This situation came about as a result of an internal input error at Fidelity Investments which over-estimated excess wages, and which does not fall under the realm of what the agency can waive on their own, Ms. Iaria explained. Should the interest be waived, Ms. Iaria explained, the normal procedure would be for the Department to waive the penalty as well. Mr. Waller explained what happened at Fidelity during this particular instance, noting that procedures were already in place to prevent something of this nature from happening again. Mr. Baer asked if the State had looked at the situation and verified the facts as presented. Ms. Iaria replied that the agency agreed with the facts as presented, adding that Fidelity/Visteon had been timely in the past and when the error was "caught" they presented the correct documentation and paid the amount owed as a result. Several Board members asked what the Department's position was on this case, to which Mr. Combs replied that he wouldn't want to speak for Ms. Weber (who was the Deputy Commissioner over Tax), nor Chief Legal Counsel, Ms. Melton. Mr. Robinson asked who is liable in the matter, Visteon or Fidelity. Mr. Waller replied in this case Fidelity would bear the cost. Mr. Seyferth asked if the interest would continue to accrue if the matter was tabled, to which Ms. Iaria agreed it would continue to accrue at one percent (1%). Mr. Baer made a motion to 1) table the request until the January meeting; 2) request that the Department provide a one-page recommendation on the action they feel should be taken; and 3) have any further interest and penalty be held in abeyance until a decision is made. Mr. Dickerson seconded the motion. Mr. Seyferth asked when this situation occurred. Ms. Iaria replied that it was in connection with the first quarter report (due April 30th)—which was filed timely. The error was detected, the proper information was filed, and the difference paid in August, Ms. Iaria stated, although she did not receive the request until November at which time she requested the matter be brought before the Board. Mr. Robinson asked if the documents were lost internally from the time the letter was written until Ms. Iaria received the request (August to November). Mr. Waller noted the request had been mailed August 11th along with the adjustment report and their check. While agreeing with Mr. Baer and Mr. Dickerson, Mr. Schoolcraft stated he would also like to understand what the purpose is of

charging an entity interest and charging an entity penalty. Mr. Schoolcraft continued by noting, if the facts were as presented it would seem to him that what occurred once the error was detected was what he would expect a "good corporate citizen" to do. Because of that he did not believe a "penalty" would necessarily need to be applied, Mr. Schoolcraft noted, although he didn't know that the interest portion would still not be appropriate. The reason being in the interim period between when the tax was due and it was paid the State lost revenue it would have gotten through interest paid on those funds, Mr. Schoolcraft stated. Mr. Thais asked that this be addressed by the Department as well next month, Mr. Combs agreed. Mr. Thais then called for a vote and the matter was tabled until the January meeting.

ROUND TABLE DISCUSSION:

Mr. Robinson noted that he had made some notes for revisions on the *Annual Report* and passed it to Ms. Feltner for further action.

After looking at the agency website Mr. Dickerson noted that it did not seem that there was anything out there regarding this Board, what it does, or its current make-up. In fact, Mr. Dickerson continued, when doing a search on *Access Indiana* all he could find was the Indiana Code that references this Board. As such, Mr. Dickerson stated, he would like to propose that something be added to IDWD's website about this Board and who to contact if one had concerns, perhaps even including access to the Board's minutes. Mr. Combs noted he was not aware that this type of information was not out there, but could look into the matter. Mr. Robinson added that he felt the current website did not have as much information on it today as it had a few years ago. In addition, the ability to go in and look at things and "practice" things such as the employer screens no longer seems to be doable, Mr. Robinson stated. Mr. Combs noted that the website had been changed since the beginning of the year based on feedback from our "customers", but again he could look into it.

PRIVILEGE OF THE FLOOR:

Mr. Thais noted that he had received a *Government Efficiency Commission Questionnaire*. The questionnaire, Mr. Thais noted, stated that the Commission has been charged to review and make recommendations to the Governor as to whether boards/commissions should be "continued, reorganized, or combined with another board/commission/state agency; and/or should be terminated or allowed to expire". Mr. Thais then went over the questions posed and his responses. This was due back to the Commission by November 30, 2005, Mr. Thais noted, however, neither a return envelope nor address had been included, so he hoped to have someone at the agency find a way to return the questionnaire after the day's meeting.

As there was no further business to come before the Board, the meeting was adjourned at 11:44 a.m. The next meeting is scheduled to be held January 4, 2006, at 10:00 a.m., at IDWD's Administrative Office.

Prepared by: Marsha Feltner
Approved by: Monty Combs